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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,265	10/29/2003	Alain Benoit	825-02-617	6508

7590 03/20/2006

Leo H. McCormick Jr
2112 Mishawaka Avenue
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EXAMINER

SCHNEIDER, CRAIG M

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/696,265

Applicant(s)

BENOIT ET AL.

Examiner

Craig M. Schneider

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species:

Species A – Figure 2

Species B – Figure 3.

The species are independent or distinct because each of the electrical circuits function in a different way.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

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2. During a telephone conversation with Leo McCormick, Jr. on 3/15/06 a provisional election was made without traverse to prosecute the invention of Species B, claims 1-2 and 4-6. Affirmation of this election must be made by applicant in replying to this Office action. Claim 3 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Priority

4. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in France on 9/11/2002. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter.

EXAMINER'S AMENDMENT

5. An examiner's amendment to the record appears below to eliminate the multiple dependency in claim 4.

Authorization for this examiner's amendment was given in a telephone interview with Leo McCormick, Jr. on 3/16/06.

The application has been amended as follows:

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In claim 4 the last line will be changed from "any one of the preceding claims." to --the switch as recited in claim 2.--.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nomura (4,337,792) in view of Foxworthy et al. (4,014,741).

Nomura discloses an electrical switch (32) for a device for level detection in a functional fluid container (10) of a motor vehicle brake system (col. 2, lines 25-28), this switch being of the type comprising two electrically conductive terminals and a first reed bulb, forming a dipole electrically connected to the two conductive terminals, the reed bulb being capable of occupying two states, one open and one closed, each state depending on whether the situation is normal or exceptional (col. 2, line 54 onto col. 3, line 12). Nomura further discloses a float (34), a magnet (36) within the float, and a fixed support (21a) which houses the electrical switch. Nomura does not disclose that the electrical switch is characterized in that it comprises a second reed bulb forming a dipole electrically connected to the two conductive terminals, this second reed bulb functioning redundantly with respect to the first reed bulb. Foxworthy et al. discloses utilizing two normally open parallel reed switches as seen in Figure 2 in which the

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second reed bulb is redundant and both switches are actuated via a magnet (col. 5, lines 46-53).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the redundant parallel reed switches as disclosed by Foxworthy et al. onto the switch assembly of Ando et al., in order to have a back up redundant switch.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nogami et al. (4,136,712) discloses a brake fluid reservoir with a reed switch, magnet, and float. Ando et al. (6,105,611) discloses a fluid reservoir with a reed switch, float, and magnet. Martinson (4,649,898) discloses switches in parallel.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig M. Schneider whose telephone number is (571) 272-3607. The examiner can normally be reached on M-F 8:30 -5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on (571) 272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CMS *CMS*
March 16, 2006


Eric Keasel
Primary Examiner
Art Unit 3754